

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| E911 Requirements for IP-Enabled Service |) | |
| Providers |) | WC Docket No. 05-196 |
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| |) | |

COMMENTS OF EARTHLINK, INC.

EarthLink, Inc. (“EarthLink”), by its attorneys, files these comments in response to the Notice of Proposed Rulemaking in the above-captioned proceedings.¹ EarthLink applauds the Commission’s forthright actions taken in the *E911 Order* to ensure that providers of interconnected voice-over-Internet protocol (“VoIP”) that offer a replacement for consumers’ traditional telephone service also offer 911 and E911 services that meet consumers’ reasonable safety expectations. EarthLink, as a provider of VoIP services, is committed to meeting and exceeding consumers’ expectations of access to emergency services, as a public responsibility and as a necessary business strategy to compete successfully with entrenched incumbent local exchange carriers (“LECs”).

Going forward, and building on the *E911 Order*, the Commission should be guided in this proceeding by the emergency service principles it enunciated for emerging

¹ See *In the Matters of IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers, First Report and Order and Notice of Proposed Rulemaking*, 20 FCC Rcd. 10245 (2005) (hereafter, “*E911 Order*” or “*NPRM*” as appropriate).

new services in the *E911 Scope Order*.² That order got it exactly right – striking the appropriate balance between public safety concerns, meeting reasonable consumer expectations, and the need to address critical implementation issues such as the technical and operational feasibility for the service provider.³ EarthLink believes that these factors are not in tension as they are applied to VoIP, they can work collaboratively, and will assist in delivering an emergency services infrastructure for the American public that will be more robust and innovative than today’s services, encompassing even more community needs.

The hallmark qualities of VoIP — innovation and flexibility across platforms — play a critical role in that future. VoIP providers are not only fully invested in the deployment of a service that meets the standards of traditional wireline E911 service. To be truly worthwhile, and to capture the attention and loyalty of the American consumer, VoIP providers have got to go much further, and design services that are measurably superior than today’s standard LEC E911. Meeting this goal will take ongoing

² *In the Matter of Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd. 25340 (2003) (“*E911 Scope Order*”).

³ *E911 Scope Order*, ¶ 3 (“We believe that these decisions represent a balanced approach, which takes into consideration the expectations of consumers, the need to strengthen Americans' ability to access public safety in times of crisis, and the needs of entities offering these services to be able to compete in a competitive marketplace.”); *id.*, at ¶¶ 18, 19 (FCC evaluates whether a new service offering should be subject to E911 requirements by “analyzing each service based on whether: 1) it offers real-time, two-way voice service that is interconnected to the public switched network on either a stand-alone basis or packaged with other telecommunications services; 2) the customers using the service or device have a reasonable expectation of access to 911 and E911 services; 3) the service competes with traditional CMRS or wireline local exchange service; and 4) it is technically and operationally feasible for the service or device to support E911.”).

technological progress, coordination with CPE and equipment vendors and public safety officials, and a regulatory approach that allows industry to advance the range of emergency services and allows consumers to choose which emergency service functions work best for them.

Public safety regulations will truly serve the public's interests best when those regulations support the variety and possibilities that VoIP technology has to offer the American public. One size does not fit all. VoIP services can be fixed, nomadic, or roaming; they can be added to a gaming device, a laptop, or a cellular phone. Thus, to be of real value, the VoIP regulatory approach must be formed in recognition of the many permutations and variations of the service. Regulating all of VoIP as if all services are fully mobile adds no public benefit to non-mobile VoIP applications, but would surely hinder innovation and increase costs to consumers for those types of competitive services.

As for adopting additional E911 obligations for mobile VoIP, the 10-year saga of CMRS implementation of E911, which is still ongoing, yields certain lessons. Repeated false regulatory deadlines, numerous industry-wide waivers, and multiple reports divert too much FCC and industry resources and focus away from realistic emergency service implementation, and are not effective levers to enhance public safety. FCC deadlines cannot push the technology any faster, incent manufacturers any more, or force the consumers to buy new handsets. This time, the industry has every incentive to offer emergency service features appropriate for the mobile consumer as soon as feasible, so industry-consensus deadlines are the correct approach. If, however, the FCC compels a

government mandate, the FCC first needs to understand better the manufacturing and industry deployment processes, and then set deadlines, if any, that are realistic.

CONCLUSION

EarthLink applauds the Commission's *E911 Order* for establishing an appropriate public safety floor for interconnected VoIP services. So long as government requirements allow VoIP innovation to flourish, the VoIP industry has every incentive to deliver a much higher standard of emergency service for the American public as technology and operational feasibility issues are resolved.

Respectfully submitted,

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** Admitted only in Maryland; approval for practicing law in the District of Columbia pending.*